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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,582	09/30/2003	Bruce Brisson	BRIS 2005 DIV 1	9956
7590	12/28/2005		EXAMINER	
Jill L. Robinson 95 Shuey Drive Moraga, CA 94556			LEE, PING	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/675,582

Applicant(s)

BRISSON ET AL.

Examiner

Ping Lee

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-6 and 9-14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9, 11 and 12 of U.S. Patent No. 6,658,119 in view of *Brisson* (US 4,954,787).

The subject matter claimed in claims 1-6 and 10-12 in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: the claimed cable of the present invention reads on the claimed cable in '119, the claimed network reads on the claimed circuit in '119, and the claimed a plurality of circuits reads the elements with the same names in claim 4 of '119. Patent '119 fails to claim that the package being a part

Art Unit: 2644

of a cable. Brisson teaches how modify the cable having a first and second conductors using a network having a capacitor and a resistor connected in series in order to reduce the noise caused by the original cable. Thus, it would have been obvious to one of ordinary skill in the art to modify patent '119 by placing the circuit as a part of a cable as taught in Brisson in order to reduce the noise caused by the cable.

Regarding claims 9 and 13, patent '119 fails to specify a musical instrument as a source. Patent '119 specifies a general source for providing signal in audio frequency. Brisson teaches that the source connected to the cable is a musical source, which provides signal in audio frequency. Thus, it would have been obvious to one of ordinary skill in the art to modify patent '119 by connecting the modifies cable to a musical instrument as suggested in Brisson in order to reduce the noise for a signal from a musical instrument.

Regarding claim 14, claim 5 of patent '119 fail to specify determining the approximate frequency which the phase angle of the first conductor is equal to 45 degrees and determining the inherent capacitance of the cable; selecting at least one target frequency within the audio frequency at which the phase angle of the first conductor is equal to 45 degrees. However, claim 5 of '119 specifies that the cable has an inherent capacitance, and the total capacitance of the inherent capacitance and the capacitance of the capacitor is less than 2500 pF. Without determining the inherent capacitance of the cable, one simply could not select the appropriate capacitor for the network. Therefore, the step of determining the inherent capacitance of the cable was inherently performed before selecting the capacitor. Claim 2 of patent '119 specifies

Art Unit: 2644

that the first conductor has a phase angle of 45 degree at a known frequency, and the known frequency is not equal to the selected frequency of the network. One simply has to have the knowledge of the known frequency in order to determine whether the known frequency is not equal to the selected frequency of the network. Thus, the step of determining the approximate frequency is inherently performed before selecting the elements for the network.

***Allowable Subject Matter***


3. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ping Lee whose telephone number is 571-272-7522.

The examiner can normally be reached on Monday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ping Lee  
Primary Examiner  
Art Unit 2644

pwl